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| 10/583,821 | 05/11/2007 | Bernard Bonjean | VANMI199.009.APC | 8759 |
| 20995 | 7590 | 03/30/2010 | | |
| KNOBBE MARLENS OLSON & BEAR LLP | | | EXAMINER | |
| 2040 MAIN STREET | | | BADR, HAMID R | |
| FOURTEENTH FLOOR | | | | |
| IRVINE, CA 92614 | | | ART UNIT | PAPER NUMBER |
| | | | 1794 | |
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| | | | 03/30/2010 | ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| | | |
|------------------------------|--------------------------------------|---------------------------------------|
| Office Action Summary | Application No. 10/583,821 | Applicant(s) BONJEAN ET AL. |
| | Examiner HAMID R. BADR | Art Unit 1794 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-32 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/22/2008
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) Notice of Informal Patent Application
- 6) Other: ____

DETAILED ACTION

Claim Objection

Claim 27 is objected to for referring to cancelled claim 25. Correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-24, 26, and 28-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claims 1, 24, 31-32 are indefinite for "stable". It is not clear what is meant by "stable". It is not clear whether the stability being referred to is microbiological, physical, organoleptic, fermentative, chemical, pH etc.
4. Claim 2 is indefinite for "gassing power". It is not clear what is meant by this phrase.
5. Claims 3 and 13 are indefinite for "aroma chemicals. It is unclear what is meant by this phrase.
6. Regarding claim 6, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
7. Claim 15 is indefinite for "DATEM, SSL, CSL, GMS". Since such acronyms can stand for compounds other than emulsifiers, it is not clear what is meant by these terms.

Claim 24 is indefinite for "stored for a longer time". The term "longer" is a relative term which renders the claim indefinite. The term is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. It is unclear over what standard this is to be "longer".

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-17, 19, 21-24, 26-27 and 29-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Taillade et al. (US 6,465,027; hereinafter R1)

10. R1 discloses a process and the resulting liquid leaven comprising flour, water, lactic acid bacteria, baker's yeast which can be stored at below 10 C for at least 4 weeks.

11. R1 discloses a stable and ready to use baker's leaven or sourdough comprising flour, amylase or amylase source, water (which can be provided by the preparations of microorganisms), homofermentative and heterofermentative lactic bacteria, at least one yeast preparation. The composition has a pH of 4.0-4.3, it contains active yeast (capable of fermenting baker's dough) and can be stored at least for 4 weeks at below 10C and preferably 2 months at about 4C. (Col. 3 line 50 to Col. 4, line 10).

12. Given that the water can be provided by the preparation of microorganism, it is clear that any supernatant, or microbial broth can provide the water for the leaven as presently claimed.
13. R1 discloses that the leaven is fermented until the depletion of fermentable sugars (col. 4, lines 40-45). Given the depletion of fermentable sugars, it is clear that the residual sugar will be kept below 0.5% as presently claimed. R1 discloses the total amount of fermentable sugars to be less than 0.1% (col. 5, lines 12-14).
14. R1 discloses that the pH of the leaven does not drop below 4 and preferably not below 4.2 (col. 5, lines 1-2).
15. R1 discloses that the leaven may contain alcohol lower than 0.1%.
16. R1 discloses the concentration steps with separation of the liquids and concentration and reconcentration of aromatic compounds in the concentrated phase (col. 8, lines 7-10)
17. R1 discloses the stabilization of the leaven using stabilizers such as xanthane gum or maintained with a gentle or slow stirring. (col. 8, lines 11-16)
18. R1 discloses that proteinic raw materials, principally yeast extract can be introduced during the cultivation of culture. (col. 8, lines 40-42).
19. R1 discloses that the bacteria and yeasts in the leaven are revivable. (col. 10, lines 22-24).
20. R1 discloses that the dry matter content of the composition is 13-20% (col. 11, lines 7-8). Therefore, it is clear that the composition is a liquid leaven as presently claimed.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claims 18, 20, and 28 rejected under 35 U.S.C. 103(a) as being obvious over

Taillade et al. (US 6,465,027; hereinafter R1)

23. While R1 discloses the incorporation of freshly prepared yeast, it is silent regarding compressed yeast.

24. It is noted that compressed yeast is a type of yeast comprising about 70% water and for that reason it is considered fresh yeast. Therefore, it is obvious that a compressed yeast can be substituted for the fresh yeast disclosed by R1.

25. While R1 discloses the incorporation of stabilizing gums such as xanthan gum, using a stabilizer such as dextran, as presently claimed, would be obvious.

26. While R1 discloses the use of freshly prepared yeast, using a yeast preparation such as cream yeast with a dry matter below 25% would be obvious.

27. Therefore, it would have been obvious to one of ordinary skill in the art to modify the teachings of R1 by substituting the yeast with compressed yeast or cream yeast (dry matter less than 25%) and or substituting xanthan gum with dextran. Absent any evidence to contrary and based on the teachings of the cited reference there would be a reasonable expectation of success in making the liquid leaven as disclosed by R1.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAMID R. BADR whose telephone number is (571)270-3455. The examiner can normally be reached on M-F, 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on (571) 272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hamid R Badr
Examiner
Art Unit 1794

/Keith D. Hendricks/
Supervisory Patent Examiner, Art Unit 1794